

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

The State of Texas, et al.,

Plaintiffs,

v.

Google LLC,

Defendants.

Case No. 4:20-cv-00957-SDJ

Hon. Sean D. Jordan

Special Master: David T. Moran

**PLAINTIFF STATES' OPENING BRIEF TO THE SPECIAL MASTER
FOR THE APRIL 4, 2024 HEARING**

Pursuant to the Special Master’s Order (ECF No. 227), Plaintiff States (“States”) submit this opening brief on pending discovery disputes for the April 4, 2024 Special Master conference.

The States have two unresolved requests to Google at this time, outlined below. Given the three fact witness depositions to be taken by the States next week and the upcoming other fact and Rule 30(b)(6) depositions to be taken by the States, these issues may require intervention by the Special Master this week. The States will continue to try to resolve these issues with Google over the next few days on their own.

Missing Chat Metadata: On March 19, the States sent Google a list of produced Google Chats (out of the roughly 13,000 identified by Google) that are still missing basic metadata that Google has produced for other Chats and that Google indicated at the March 7 Special Master hearing were extractable for Chats. Ex. A. The States requested that Google provide the missing metadata. That basic metadata includes “Recipient,” “From,” and “Master Date” information:

Missing Metadata Field	Number of Documents/Chats Missing Metadata
Rev Recipient	180 (excluding attachments)
Rev From	172 (excluding attachments)
Master Date	1,676

With the upcoming depositions next week, the importance of Google Chats as a communication method between Google employees, and having not heard back from Google, the States followed up again a week later on March 26. Ex. B. The States also requested Google to confirm by Thursday, March 28, that Google has produced all relevant, responsive chats for the Google deponents, noticed by the States under Rule 30(b)(1), as well as other Google custodians, with the exception of the forthcoming DTPA productions.. *Id.*

Texas’s Second Requests for Production for contracts and contracting publisher information relevant to the States’ tying claims: The State of Texas served its Second Set of

Requests for Production (“RFPs”) on Google on February 9, 2024. Those RFPs requested GAM (or AdX-DFP paired), Yavin, and AdX Direct contracts and the identity of publishers with those contracts, which documents and information are relevant to the States’ antitrust tying claims. Ex. C. Google responded on March 11, 2024, not producing any documents but generally offering to meet and confer. Ex. D. The Parties met and conferred on those RFPs and Google’s responses on March 19. As part of that discussion, Texas directed Google to Google’s ROGs, which asked the States to identify all contracts relevant to their tying claims.

Google stated it would take back and consider either producing (a) form contracts and lists of publishers with each form contract or (b) all relevant, responsive publisher contracts, depending on how Google stores and how quickly Google can collect and produce either form of these documents. *See Ex. E.* The States emphasized they were willing to take either type of production, based on the most expeditious form that can be produced. *Id.* The States believe these discrete categories of documents, in either form, should be able to be produced quickly but have not heard from Google since the March 19 meet and confer. The States followed up again on March 26, requesting an immediate response from Google as to these RFPs and documents and that these productions occur before the 30(b)(6) deposition(s) on the tying-related topics. *Id.*

* * *

The States will keep the Special Master updated on each of these issues this week and advise whether resolution has been reached or if intervention is required.

Respectfully submitted,

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CERTIFICATION OF CONFERENCE

I certify that counsel has complied with the meet and confer requirement in Local Rule CV-7(h). The personal conferences required by Local Rule CV-7(h) have been conducted or were attempted on the following dates in the following manner, with the names of the participants in the conferences.

Date & Manner	Conferred Issues	Participants ¹
March 19, 2024 Teams video call	Texas's Second Requests for Production (for GAM, Yavin, and AdX Direct Contracts)	For the States: Geraldine Young and Peter Hillegas For Google: Lauren Kaplin, Mollie Bracewell, Paul Yetter
February 23, 2023 Teams video call	Google's production of chats	For the States: Zeke DeRose III, Jonathan Wilkerson, and Geraldine Young For Google: Mollie Bracewell, Robert McCallum, and Paul Yetter

The foregoing document and exhibits further outline explanations of why no final resolution has been reached yet, leaving potentially open issues for the Special Master and Court to resolve.

/s/ Geraldine Young
Geraldine Young

¹ The conferences included other attorneys for both sides. Included are those who conferred, and not all observers are listed here.

CERTIFICATE OF SERVICE

I certify that, on March 26, 2024, this document was filed electronically in compliance with Local Rule CV-5(a) and served on all counsel who have consented to electronic service, per Local Rule CV-5(a)(3)(A).

/s/ Geraldine Young
Geraldine Young